

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
PHILADELPHIA DIVISION**

<b>In re:</b>  <b>Francis E Smiley, III</b> <b>Debtor</b>  <b>Specialized Loan Servicing LLC</b>  <b>Movant</b>  <b>v.</b> <b>Francis E Smiley, III</b> <b>Debtor/Respondent</b> <b>KENNETH E. WEST, Esquire</b> <b>Trustee/Respondent</b>	<b>Bankruptcy No. 23-10780-mdc</b>  <b>Chapter 13</b>  <b>Hearing Date: April 23, 2024</b> <b>Hearing Time: 10:30 a.m.</b> <b>Location: 900 Market Street, Suite 400</b> <b>Philadelphia, PA 19107</b> <b>Courtroom Number #2</b>
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**MOTION OF SPECIALIZED LOAN SERVICING LLC FOR RELIEF FROM THE  
AUTOMATIC STAY TO PERMIT SPECIALIZED LOAN SERVICING LLC TO  
FORECLOSE ON 215 OXFORD HILL LN HAVERTOWN, PA 19083-2803**

Secured Creditor, Specialized Loan Servicing LLC, by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor(s), Francis E Smiley, III, filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on March 17, 2023.
2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. On September 26, 2013, Francis E. Smiley, III executed and delivered a Promissory Note (“Note”) and Mortgage (“Mortgage”) securing payment of the Note in the amount of

\$207,575.00 to Network Funding, LP. A true and correct copy of the Note is attached hereto as Exhibit “A.”

4. The Mortgage was recorded on October 11, 2013 in Instrument Number 2013069923 of the Public Records of Delaware County, PA. A true and correct copy of the Mortgage is attached hereto as Exhibit “B.”
5. The Mortgage was secured as a lien against the Property located at 215 Oxford Hill LN Havertown, PA 19083-2803, (“the Property”).
6. A loan modification was entered into on June 24, 2019, creating a new principal balance of \$233,278.18. A true and correct copy of the Agreement is attached hereto as Exhibit “C.”
7. The loan was lastly assigned to Specialized Loan Servicing LLC and same was recorded with the Delaware County Recorder of Deeds on October 4, 2022, as Instrument Number 2022052786. A true and correct copy of the Assignment of Mortgage is attached hereto as Exhibit “D.”
8. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor, has been duly indorsed, or Creditor, directly or through an agent has possession of the promissory note and may enforce the promissory note as a transferee in possession. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust. If the original promissory note is lost or destroyed, then Creditor will seek to prove the promissory note using a lost note affidavit.
9. Based upon the Debtor(s)’ First Modified Chapter 13 Plan (Docket No.24), the Trustee intends to cure Secured Creditor's pre-petition arrearages within the Chapter 13 Plan and

the Debtor is responsible for maintaining post-petition payments directly to Secured Creditor. A true and correct copy of the First Modified Chapter 13 Plan is attached hereto as Exhibit “E.”

10. Debtor has failed to make the monthly payments of principal, interest, and escrow in the amount of \$1,587.69 which came due on January 1, 2024, and February 1, 2024, respectively.

11. Thus, Debtor(s)’ post-petition arrearage totaled the sum of \$1,610.76 with suspense \$1,564.62 through February 29, 2024.

12. As of February 29, 2024 the current unpaid principal balance due under the loan documents is approximately \$224,009.59. Movant’s total claim amount, itemized below, is approximately \$286,236.46. See Exhibit “F.”

Principal	\$224,009.59
Accrued Interest	\$13,015.29
Advertisement/ Publication Costs	\$1,278.20
Deferred Interest	\$36,093.67
Escrow Advance	\$12,860.66
Less suspense account or partial balance paid	(\$1,020.95)
Total to Payoff	\$286,236.46

13. According to the Debtor(s)’ schedules, the value of the property is \$324,450.00. A true and accurate copy of the Debtor(s)’ Schedule A/B is attached hereto as Exhibit “G.”

14. Under Section 362(d)(1) of the Code, the Court shall grant relief from the automatic stay for “cause” which includes a lack of adequate protection of an interest in property. Sufficient “cause” for relief from the stay under Section 362(d)(1) is established where a debtor has failed to make installment payments or payments due under a court-approved plan, on a secured debt, or where the Debtor(s) have no assets or equity in the Mortgaged Property.

15. As set forth herein, Debtor has defaulted on his secured obligation as he has failed to make his monthly post-petition installment payments.

16. As a result, cause exists pursuant to 11 U.S.C. § 362(d) of the Code for this Honorable Court to grant relief from the automatic stay to allow Secured Creditor, its successor and/or assignees to pursue its state court remedies, including the filing of a foreclosure action.

17. Additionally, once the stay is terminated, the Debtor(s) will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

**WHEREFORE**, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Specialized Loan Servicing LLC to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), and for any such further relief as this Honorable Court deems just and appropriate.

Date: March 29, 2024

**Robertson, Anschutz, Schneid, Crane  
& Partners, PLLC**

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